Supreme Court, U. S.
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No. 78-760

In the Supreme Court of the United States

OCTOBER TERM, 1978

HELEN K. TASSOP, ETC., PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

WADE H. McCREE, JR.
Solicitor General
Department of Justice
Washington, D.C. 20530

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We wish to call to the Court's attention certain facts that indicate that the petition was filed out of time. The judgment of the court of appeals was entered on March 24, 1978 (Pet. App. 2a). In accordance with the 90-day time limit for seeking certiorari in a civil case established by 28 U.S.C. 2101(c), the time within which the petition should have been filed expired on June 22, 1978. On July 10, 1978, Mr. Justice Marshall denied petitioner's application for an extension of time within which to seek certiorari. The petition was filed on November 1, 1978. The Court therefore lacks jurisdiction to consider the petition. See, *e.g.*, *FTC* v. *Minneapolis-Honeywell Co.*, 344 U.S. 206, 207 (1952); *Department of Banking* v. *Pink*, 317 U.S. 264, 268 (1942); *Toledo Co.* v. *Computing Co.*, 261 U.S. 399, 417-418 (1923).

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

WADE H. MCCREE, JR.
Solicitor General

DECEMBER 1978